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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 9, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

EX PARTE *Re: Bell Atlantic Corp. and GTE Corp., CC Docket No. 98-184*

Dear Ms. Salas:

Enclosed please find copies of preexisting carrier capacity agreements between GTE Telecom and affiliates of Newco as referred in the Purchase, Resale and Marketing Agreement, Service Schedule, Private Line Transport and ATM Transport.

If you have any questions, please call me.

Sincerely,


Alan F. Ciamporcero

cc: Johanna Mikes

No. of Copies rec'd 21
List A B C D E

**GTE TELECOM INCORPORATED
CAPACITY AGREEMENT**

This CAPACITY AGREEMENT is made and entered into as of August 25, 1999, by and between GTE Telecom Incorporated (hereinafter referred to as "TELECOM" or Party), a Delaware corporation with principal offices at 201 N. Franklin Street, Suite 2400, Tampa, Florida 33602; and Bell Atlantic Global Networks, Inc. (hereinafter referred to as "CUSTOMER" or Party), with offices at 1320 N. Court House Road, 5th Floor, Arlington, VA 22201 for the provision of capacity and related ancillary telecommunications services (hereinafter referred to as "Services") as described herein and accepted by CUSTOMER under this Agreement, subject to the terms and conditions contained herein. This Capacity Agreement together with any Capacity Descriptions (as described in Section 1 below) accepted by TELECOM pursuant to the terms hereof shall be referred to collectively as the "Agreement".

1. SERVICE REQUESTS/CAPACITY DESCRIPTIONS: Requests for Services to be provided hereunder shall be issued by CUSTOMER from time to time on TELECOM Capacity Description Form(s) (hereinafter referred to as a "CD", a copy of which is attached hereto and made a part hereof as **Exhibit 1**). Each CD shall reference this Capacity Agreement by CA Number. Such CDs shall be effective when accepted in writing by TELECOM and shall become part of this Agreement to the extent that they specify the type of Service to be provided, quantity of circuits, originating and terminating cities, requested service date, Service Term, recurring and non-recurring charges for provision of Service, and other information necessary for TELECOM to provide Service to the CUSTOMER. No action by either Party (including, without limitation, provision of Service to CUSTOMER pursuant to such CD) shall be construed as binding or estopping a Party with respect to such term or condition, unless the CD containing said specific term or condition has been duly executed by an authorized representative of the Party.

2. EFFECTIVE DATE AND APPLICATION OF THIS AGREEMENT: This Agreement shall be effective between the parties as of the date first written above. This Agreement shall apply exclusively to the Service provided to CUSTOMER pursuant to the CD(s) identified with this Agreement and accepted by TELECOM, for the Service Term stated therein and any automatic extensions thereof. TELECOM reserves the right not to accept a CD under this Agreement at any time. This Agreement shall expire at the end of five (5) years or upon expiration of all CD(s), whichever is later.

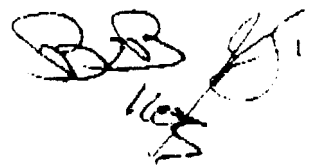
3. SERVICE TERM: (a) After a CD is accepted by TELECOM, a Firm Order Confirmation Date ("FOC" Date) will be scheduled for Service installation. The Service Term for Services subject to recurring charges and described in a CD shall commence on the Firm Order Confirmation Date or the date upon which the Service actually becomes available (the "In Service" Date), in conformity with technical standards, whichever is later. TELECOM's standard ordering interval for OC 12 Service and below, is forty-five (45) calendar days from TELECOM's receipt of the CD signed by the CUSTOMER. During the ordering interval, TELECOM will use commercially reasonable efforts to process each CD to achieve installation and cut-over (i.e., In Service) within the forty five (45) day interval. The Parties may at any time mutually consent to accelerate the In Service Date. Such consent must be in writing and signed by both Parties. Within fifteen (15) days after its receipt of CUSTOMER's signed CD, TELECOM will provide CUSTOMER with a FOC Date.

(b) TELECOM will make reasonable efforts to meet the CUSTOMER requested In Service Date, however, the inability of TELECOM to install Service on or before the date requested shall not be a Default under this Agreement. Except for any installation delays caused by those events described in Section 12 below, in the event Service installation is delayed for ninety (90) days beyond the CUSTOMER requested In Service Date with respect to each Service ordered, then CUSTOMER's remedy shall be cancellation of the CD which pertains to such Service upon ten (10) calendar days prior written notice to TELECOM and a ninety (90) day credit for charges against other Service ordered by CUSTOMER.

(c) Upon expiration of the Service Term set forth in the CD, if CUSTOMER is not then in Default under this Agreement, Service will automatically be extended for continuing thirty (30) day periods and may be

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canceled by either party upon thirty (30) calendar days prior written notice. Unless otherwise agreed to in writing, the charges for Service during any such extension shall remain the same for such Services.

4. **DESCRIPTION OF SERVICES:** As specified in the CD accepted by TELECOM hereunder, TELECOM will provide to CUSTOMER the following Services:

(a) Capacity Service through the installation and operation of either owned or leased telecommunications facilities between TELECOM designated termination points (hereinafter "Capacity"), in accordance with the Service Level Objectives contained in Exhibit 2 and

(b) Ancillary Services Other Services, available on an optional basis, as may be requested by the CUSTOMER (hereinafter referred to "Ancillary Service") as described in Section 5 below.

5. **ANCILLARY SERVICES AND CHARGES:**

(a) Upon CUSTOMER's request, TELECOM may, at its sole option and when reasonable under the circumstances, act as agent for the CUSTOMER with responsibility for provisioning and the initial testing of an interconnection between selected Interexchange Service, the local exchange carrier or alternate access carriers (collectively "Local Carriers") and a CUSTOMER designated termination point and/or service ("Local Access Service"). CUSTOMER shall issue a Letter of Agency authorizing TELECOM to provision such interconnection on behalf of CUSTOMER. Charges to CUSTOMER for Local Access Service administered on behalf of CUSTOMER by TELECOM shall be as stated in the accepted CD.

(b) TELECOM may also provide Local Access Service or other Ancillary Services to CUSTOMER as expressly ordered by the Customer in writing. These Ancillary Services may include are not limited to any one or more of the following:

(1) Multiplexing/demultiplexing service ("Muxing");

(2) Digital cross-connect service;

(3) Extraordinary service under the following circumstances including but not limited to:

(i) CUSTOMER's request to expedite Service availability to a date earlier than a previously accepted start date or Firm Order Confirmation Date;

(ii) Service redesign or other activity occasioned by receipt of inaccurate information from CUSTOMER;

(iii) Reinstallation services for any suspension of Service for cause by TELECOM;

(iv) CUSTOMER's request for use of routes or facilities other than those selected by TELECOM for provision of the Service;

(v) CUSTOMER'S request for use of rack space and power in TELECOM facilities;

(vi) Other circumstances in which extraordinary costs and expenses are generated by CUSTOMER and reasonably incurred by TELECOM.

(c) Recurring and non-recurring charges to CUSTOMER for Local Access (including TELECOM's Coordination Fee) and other Ancillary Services shall be established as of TELECOM's acceptance of the CD relevant thereto.

6. **CUSTOMER RESPONSIBILITIES:** CUSTOMER has sole responsibility for installation, testing, and operation of facilities, services, and equipment other than those specifically provided by TELECOM under a duly accepted CD. In no event will the untimely installation or non-operation of CUSTOMER's facilities, services, and equipment (including local exchange access and customer premise equipment) relieve CUSTOMER of its obligation to pay charges for Capacity or Ancillary Service as of the In Service Date. Notwithstanding the immediately preceding sentence, CUSTOMER may request one extension of

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the In Service Date for not more than fifteen (15) calendar days. Such request must be in writing and must be received by TELECOM at least fifteen (15) calendar days prior to the initial FOC Date established by TELECOM. Any such extension will not relieve CUSTOMER of its obligations to pay charges for any Local Access Services ordered by TELECOM on behalf of CUSTOMER as of the FOC Date first established by TELECOM.

7. PAYMENT OF CHARGES:

(a) Subject to Section 8 below, all charges for Services provided by TELECOM pursuant to this Agreement shall be specified in the CD referred to in this Agreement.

(b) CUSTOMER shall pay each TELECOM invoice for Service in full, without deduction or offset of any kind, within thirty (30) days after the date of invoice ("Due Date"). All pro-rated monthly recurring charges (i.e., charges for monthly Services provided for less than a calendar month), installation, and other non-recurring charges shall be payable on the Due Date. All payment shall be made in US dollars. CUSTOMER agrees to timely remit payment to TELECOM at the remittance address indicated on the TELECOM invoice to CUSTOMER.

(c) In the event CUSTOMER fails to pay TELECOM's invoice in full or remit payment at the proper address on or before the Due Date, CUSTOMER shall pay a late fee in an amount equal to one and one-half percent (1½%) per month of the unpaid balance. The late fee will be applied for the number of days from the payment Due Date up to and including the date payment is received by TELECOM. Notwithstanding the foregoing, late fees shall apply to, but shall not be due and payable for, amounts reasonably disputed by CUSTOMER provided: (i) CUSTOMER notifies TELECOM of the basis of such dispute in writing within thirty (30) days after the Due Date and (ii) negotiates in good faith with TELECOM for the purpose of resolving such dispute. In the event such dispute is resolved in favor of TELECOM, CUSTOMER will pay to TELECOM the once disputed amount together with the applicable late fees. In the event the dispute is resolved in favor of the CUSTOMER, CUSTOMER will receive a credit for the amounts determined not to be owed to TELECOM together with a credit for the applicable late fees and interest equal to one and one half percent (1½%) per month on the credit amounts. The Parties shall use their best efforts to negotiate in good faith to resolve the disputed invoice within thirty (30) days of CUSTOMER's written notice of such dispute. If such resolution is not attained or the time to resolve the dispute is not extended by mutual agreement of the Parties, the dispute shall be settled by arbitration as set forth below in this Agreement.

(d) TELECOM may, in order to safeguard its interests, require CUSTOMER which has no credit history with TELECOM or habitually pays late to make a deposit prior to or any time after the provision of Service to the CUSTOMER to be held by TELECOM as a guarantee of the payment of the rates and charges. At such time as the provision of the Service to CUSTOMER is terminated, the amount of the deposit will be credited to the CUSTOMER's account and any credit balance which may remain will be refunded. After the CUSTOMER has established a six (6) month prompt payment record, such deposit may be refunded or credited to the CUSTOMER account at any time prior to the termination of the provision of the Service to CUSTOMER. In the event CUSTOMER pays a deposit as described above, simple interest at the rate of six percent (6%) will be applied to the deposit for the number of days from the date such deposit is credited to the CUSTOMER'S account or the date the deposit is refunded by TELECOM.

8. TAXES/ADDITIONAL CHARGES:

(a) CUSTOMER acknowledges and understands that all charges stated in the CD are computed by TELECOM exclusive of any applicable federal, state, or local use, excise, gross receipts, sales, and privilege taxes, duties, fees, including but not limited to applicable Universal Service Fund contributions, or similar liabilities (other than general income or property taxes), whether charges to or against TELECOM or CUSTOMER because of the Service furnished by TELECOM ("Additional Charges"), and that such Additional Charges shall be paid by CUSTOMER in addition to all other charges provided for herein.

(b) Such taxes, surcharges or fees shall be separately stated on the invoice and shall be paid directly to TELECOM at the same time as all other charges are due and payable in accordance with this Agreement. Simultaneous with the signing of this Agreement, CUSTOMER shall provide TELECOM with a valid Certificate of Exemption from taxes that would otherwise be paid by CUSTOMER for all foreign, federal, state, country and local taxes and fees, (if any) or other evidence reasonably satisfactory to TELECOM that CUSTOMER is not subject to such taxes, surcharges, or fees. TELECOM will invoice

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CUSTOMER for taxes that are not covered by a valid tax exempt certificate properly filed with TELECOM.

9. EARLY TERMINATION:

- (a) Either Party may terminate this Agreement if:
- (i) the other Party ceases doing business as a going concern, makes an assignment for the benefit of creditors, admits in writing to its inability to pay its debts as they become due; or
 - (ii) the other Party files a voluntary petition in bankruptcy, is adjudicated a bankrupt or an insolvent; or
 - (iii) the other Party files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation or files an answer admitting the material allegations of a petition filed against it in any such proceeding; or
 - (iv) the other Party consents or acquiesces in the appointment of a trustee, receiver, or liquidator of it or of all or any substantial part of its assets or properties, or it or its shareholders shall take any action looking to its dissolution or liquidation;
 - (v) the other Party breaches any material provision of this Agreement, other than those related to payment of charges, and fails to cure such breach within thirty (30) calendar days after the receipt of notice thereof ("Default").
- (b) Both Parties may terminate this Agreement upon mutual written consent.

10. SUSPENSION OF SERVICE:

(a) In the event payment in full is not received from CUSTOMER on or before the Due Date with respect to any undisputed amounts, TELECOM shall have the right, after giving CUSTOMER thirty (30) days written notice via express courier service or registered mail, to suspend all or any portion of Service until such time as CUSTOMER has paid in full all charges then due, including any late fees as specified herein.

(b) Following such payment, TELECOM shall be required to reinstate Service to CUSTOMER only upon CUSTOMER's provision to TELECOM of satisfactory assurance (such as a deposit) of CUSTOMER's ability to pay for Service and CUSTOMER's advance payment of the cost of reinstating Service. If CUSTOMER fails to make such payment by a date determined by and acceptable to TELECOM, CUSTOMER will be deemed to have canceled the suspended Service effective the date of the suspension. Upon such termination, all balances become due and payable.

11. CANCELLATION OF SERVICE:

(a) CUSTOMER may cancel a CD without liability if a Service does not become available within thirty (30) days of the FOC Date as described in Section 3 (b) above.

(b) After a CD is submitted to TELECOM by the CUSTOMER, CUSTOMER may cancel all or a portion of the Services ordered upon written notice to TELECOM. The charges for such Cancellation are as follows:

Prior to issuance of the FOC	No Cancellation Charges
16 days or more prior to FOC Date	50 % of applicable MRC for one (1) month
15 days or less prior to the FOC Date	One (1) Month applicable MRC plus NRC

(c) Unless otherwise stated in the CD and specifically agreed to in writing by both Parties, in the event CUSTOMER cancels existing Service (i.e., the IXC portion only and not the Local Access Service) prior to the end of the Service Term described in the CD, CUSTOMER shall pay TELECOM an amount equal to One Half of the balance for the monthly Service charges that otherwise would have become due for

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the unexpired portion of the Service Term ("Early Cancellation Charges"). Notwithstanding the immediately preceding sentence, subject to the availability of Replacement Services from TELECOM, CUSTOMER may cancel Service prior to the expiration of the Service Term without incurring Early Cancellation Charges under the following circumstance:

(d) In the event, CUSTOMER cancels existing Service or any portion thereof prior to the expiration of the Service Term for such Service as described in the CD and replaces the canceled Service by entering into a new CD for "Replacement Services" as defined below, then no Cancellation Charges shall apply.

For the purposes of this section, the Replacement Services must:

- (i) be currently available on GTE's National Fiber Network;
- (ii) be ordered by entering into a CD for new Services within sixty (60) days of the cancellation;
- (iii) have a Service Term equal to the balance of the unexpired Service Term for the canceled Service; or
- (iv) have a Monthly Recurring Charge equal to or greater than the Monthly Recurring Charge of the canceled Services.

In the event CUSTOMER fails to order Replacement Services within sixty (60) days of its cancellation of existing Service, then Early Cancellation charges shall apply as described above.

(e) Notwithstanding the foregoing, and upon thirty (30) days prior written notice, either Party shall have the right, without cancellation charge or liability, to cancel (i) an affected portion of the Service, if TELECOM is prohibited by governmental authority from furnishing said portion, or (ii) an affected portion of the Service if any material rate or term contained herein is substantially changed by final order of a court of competent jurisdiction, the Federal Communication Commission, or other local, state or federal government authority.

(f) It is agreed that TELECOM's damages in the event of a cancellation can be difficult or impossible to ascertain. The provision for cancellation charges in this subsection is intended to establish liquidated damages in the event of Service cancellation and is not intended as a penalty.

12. FORCE MAJEURE: If TELECOM's performance of this Agreement or any other obligation hereunder is prevented, restricted or interfered with by causes beyond their reasonable control including but not limited to acts of God, fire, explosion, vandalism, storm, or other similar occurrence, any law, order, regulation, direction, action or request of the United States government or state or local government, or of any department, agency, commission, court, bureau, corporation or other instrumentality of any one or more said governments, or civil or military authority, or by national emergencies, insurrections, riots, wars, strikes, lockouts or other labor difficulties, actions or inactions of a third party provider or operator of facilities employed in the provision of the Services, suppliers' failures, shortages, breaches, or delays, then TELECOM shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference. TELECOM shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or cease.

13. SERVICE WARRANTY: TELECOM warrants that it will provide the Service to CUSTOMER in accordance the Service Level Objectives set forth in this Agreement. TELECOM will use reasonable efforts under the circumstances to remedy any delays, interruptions, omissions, mistakes, accidents or errors in any Service and restore the Service in accordance with Technical Standards. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

14. LIMITATION OF LIABILITY: TELECOM shall not be liable for interruptions, delays, errors, or defects in transmission caused by the Customer, or the Customer's agents, and users, or by facilities or equipment provided by the Customer or by equipment interconnected with the Customer. UNDER NO CIRCUMSTANCES, WHETHER IN CONTRACT TORT OR OTHERWISE, SHALL TELECOM OR ANY

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THIRD PARTY PROVIDER OR OPERATOR OF FACILITIES EMPLOYED IN THE PROVISION OF THE SERVICE BE LIABLE FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR ANY OTHER DAMAGES OF ANY KIND OR NATURE WHATSOEVER REGARDLESS OF THE CAUSE OR FORESEEABILITY THEREOF, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM DELAY OR LOSS OF DATA, PROFITS, REVENUE OR GOODWILL.

15. INDEMNIFICATION:

(a) TELECOM agrees to release, indemnify, defend, and hold harmless CUSTOMER from losses, claims, demands, damages, expenses, suits, or other actions, including reasonable attorney's fees, for personal injury, including death of any person or persons, and for losses, damage, or destruction of property, to the extent proximately caused by the negligence or willful misconduct of TELECOM, its employees, contractors, or agents. This indemnity applies where TELECOM's negligence or willful misconduct is either the sole or the contributing cause of the injury, death, or damage. This indemnity does not extend to any portion of the injury, death or damage caused by either the sole or the contributing negligence of CUSTOMER or third parties.

(b) In the event parties other than CUSTOMER shall have use or benefit of or shall be otherwise affected by the Service provided through CUSTOMER, then CUSTOMER agrees to forever indemnify and hold TELECOM and any third party provider or operator of the facilities employed in the provision of the Service harmless from and against any and all claims, demands, suits, actions, losses, damages, assessments or payments which may be asserted by said parties ("Third Party Actions"), arising out of or related to any outage in Service. CUSTOMER shall not indemnify TELECOM for Third Party Actions asserted against TELECOM to the extent that such Third Party Actions are independent of CUSTOMER and its provision of the Services to these third parties.

16. **NOTICES:** Notices under this Agreement shall be in writing and shall be given or made by telephonically confirmed facsimile transmissions, certified or registered mail, express mail or other overnight delivery service, or hand delivery, proper postage or other charges prepaid. Notices shall be sent to the address listed below until such address is changed by written notice. Such notice shall be deemed to have been given or made when actually received or seventy two (72) hours after being sent, whichever occurs first. Either Party may change the notice address or addressee by giving notice thereof to the other Party.

TO GTE TELECOM:

GTE Telecom Incorporated
201 N. Franklin Street
Suite 2400
Tampa, Florida 33602
Attention: Manager - Contracts and Tariffs
Fax No.: 813/209-9620

TO CUSTOMER:

Bell Atlantic Global Networks, Inc.
1320 N. Court House Road, 5th Floor
Arlington, VA 22201
ATTN: Joel Gross, Director

17. USE OF SERVICE/CAPACITY:

(a) TELECOM's obligation to provide Services specified herein is conditioned upon CUSTOMER not allowing the Services to be used for any unlawful purpose or in violation of any governmental regulations or authorizations. TELECOM shall have the right to limit, terminate or suspend Service by written notice for illegal use of the Service by CUSTOMER or any activity by CUSTOMER, as determined in the sole discretion of TELECOM, that threatens public health, safety, or welfare, or the integrity or reliability of TELECOM's facilities or service to TELECOM's other customers.

(b) If CUSTOMER wishes to purchase capacity in an amount exceeding the equivalent of OC-12 on any one route, then CUSTOMER represents and warrants that it is not now, nor shall it become during the Term of this Agreement, a Capacity Reseller (as defined below) with respect to any Services provided under this Agreement. If CUSTOMER is or becomes during the Term of this Agreement a

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Capacity Reseller with respect to any of the Services purchased hereunder, then CUSTOMER may not purchase capacity in excess of the equivalent of one OC-12 on any one route (referred to in this Section as the "Maximum Capacity"). If, at the time CUSTOMER becomes a Capacity Reseller with respect to the Services hereunder, CUSTOMER has ordered in excess of the Maximum Capacity, then CUSTOMER shall immediately terminate all capacity in excess of the Maximum Capacity. As used herein, a "Capacity Reseller" is any person or entity which, in whole or in part, seeks to obtain telecommunications capacity for the purpose of reselling or otherwise providing access thereto to third parties for profit, whether or not such person or entity actually realizes a profit as a result of such transaction. CUSTOMER's failure to comply with this Section shall constitute a material default and shall be grounds for immediate termination. CUSTOMER's purchase of the Services for use solely as part of its internet backbone and/or part of its telecommunications backbone for sale of minutes of use shall not cause CUSTOMER to be deemed a Capacity Reseller.

18. CONFIDENTIALITY:

(a) For purposes of this Agreement, "Confidential Information" shall mean all information in whatever form, faxed, recorded, or transmitted relating to the past, present, or future business affairs, including, without limitation, research, development, business plan, operations or systems, of the disclosing Party or another Party whose information the disclosing Party has in its possession under obligations of confidentiality, which is disclosed by the disclosing Party to the receiving Party bearing an appropriate legend indicating its proprietary or confidential nature or, if disclosed orally or in other non-written form, identified as confidential at the time of disclosure, and within thirty (30) days thereafter summarized and identified in writing as confidential. All Confidential Information identified as confidential at the time of disclosure, and within thirty (30) days thereafter, summarized and identified in writing as confidential. All Confidential Information disclosed under this Agreement shall be and remain the exclusive property of the disclosing Party. Notwithstanding the foregoing, any and all information regarding CUSTOMER's end-users which TELECOM acquires or learns from the provision of TELECOM Services hereunder shall be deemed Confidential Information of CUSTOMER regardless of designation or lack thereof, except for that information that is unique to TELECOM's provision of Services hereunder.

(b) For a period of two (2) years from the expiration or earlier termination of this Agreement, all Confidential Information of either Party:

- (i) shall not be copied, used, distributed, disclosed, disseminated or communicated in any way or form by the receiving Party whether or not for its own benefit, except to or by its employees, agents and consultants who have a need to know and have agreed to keep the Confidential Information confidential; provided, however, that notwithstanding anything herein to the contrary, no term or provision of this Agreement shall preclude either party from disclosing billing/account information to that Party's end user if such disclosure is necessary for the disclosing Party to perform its obligations under this Agreement, or from disclosing any Confidential Information to the extent that disclosure may be required by law or any governmental authority;
- (ii) shall not be used by the receiving Party for any purposes, except solely for the performance of this Agreement without the express prior written consent of the disclosing Party;
- (iii) shall be treated with at least the same degree of care to avoid disclosure as the receiving Party would treat its own confidential information of like importance and, at a minimum, shall be treated with a reasonable degree of care to avoid any such disclosure; and
- (iv) shall be returned to the disclosing Party (including without limitation, all copies thereof) within thirty (30) days after receipt by the receiving party of a written request from the disclosing party setting forth the Confidential Information to be returned.

(c) Information shall not be deemed confidential for purposes of this Agreement to the extent that such information:

- (i) which is made public by the disclosing Party or which generally becomes available to the public other than through a disclosure by the receiving party or its officers, employees, consultants, or representatives;
- (ii) which is already in the possession of the receiving party and not subject to an existing agreement of confidentiality between the parties;

- (iii) which is received from a third Party without restriction and without breach of this Agreement;
- (iv) which is independently developed by the receiving Party as evidenced by its records; or
- (v) which is disclosed pursuant to a valid order of a court or other governmental body or any political subdivision thereof; provided, however, that the recipient of the information shall first have given notice to the disclosing Party and made a reasonable effort to obtain a protective order requiring that the information and/or documents so disclosed be used only for the purposes for which the order was issued.

19. LICENSES, APPROVALS AND AUTHORIZATIONS: Each Party represents that in all jurisdictions in which it provides services that require licenses, approvals or other authorizations it has obtained such licenses, approvals or other authorizations from the appropriate governmental authority. Further, if required by one Party, the other Party shall provide proof of such licenses, approvals or other authorizations. Either Party shall immediately notify the other Party in writing, in the event a Party is prohibited, either on a temporary or permanent basis, from continuing to provide its telecommunications services in any jurisdiction. In such event, each Party reserves the right to terminate this Agreement.

20. RESOLUTION OF DISPUTES: The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or injunction, the Parties agree to submit all disputes to arbitration in accordance with the rules of the American Arbitration Association. Discovery shall be controlled by the arbitrator. Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party the costs of production of documents (to include search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.

21. GENERAL PROVISIONS:

(a) CUSTOMER will execute such other documents, provide such information, and affirmatively cooperate with TELECOM, all as may be reasonably required by TELECOM and relevant to providing the Service. In particular, CUSTOMER accepts the responsibility for providing TELECOM with special access surcharge exemption forms as may be required by the local exchange carrier and as applicable, TELECOM's Universal Service Fund exemption form.

(b) No amendment or waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same shall be in writing and signed by or on behalf of the Party against whom such amendment, waiver or consent is claimed. In addition, no course of dealing or failure of a Party to strictly enforce any term, right or condition of the Agreement shall be construed as a waiver of such term, right, or condition.

(c) The provision of Service will not create a partnership or joint venture between the parties or result in a joint communications service offering to third parties.

(d) In the event suit is brought or an attorney is retained to enforce terms of this Agreement or to collect any monies due hereunder or to collect money damages for breach hereof, the enforcing Party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation, and other related expenses incurred in connection therewith.

(e) No subsequent agreement shall change, modify or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by authorized representatives of both parties.

(f) Neither Party may, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, assign or transfer this Agreement or any obligation incurred hereunder, except that either Party upon written notice to the other may assign this Agreement to any affiliated entity (provided such TELECOM affiliated entity or successor entity has succeeded to the provision of TELECOM's Services hereunder), or to a successor entity upon the merger, reorganization, consolidation, or sale of all or substantially all of such Party's assets. Any attempts to assign this Agreement in contravention of this Section shall be void and of no force and effect.

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(g) This Agreement shall be a contract between TELECOM and CUSTOMER and the terms hereof shall be construed under the laws of the State of New York without regard to choice of law principles.

(h) In the event that any one or more of the provisions contained herein shall for any reason be held to be unenforceable in any respect under the law of any state or of the United States of America, such unenforceability shall not affect any other provision of this Agreement, but this Agreement shall then be construed as if such unenforceable provision of provisions had never been contained herein.

(i) Provisions contained in this Agreement that by their meaning and context are intended to survive the performance, termination and/or expiration of this Agreement shall so survive.

(j) The headings in this Agreement are for convenience and shall not be construed to define or limit any of the terms herein or affect the meanings or interpretation of this Agreement.

(k) Words having well-known technical or trade meanings shall be so construed, and all listing of items shall be taken to be exclusive, but shall include other items, whether similar or dissimilar to those listed, as the context reasonably applies in the interpretation of this Agreement.

(l) This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same instrument.

(m) The Parties shall not advertise, market or otherwise disclose to others any information relating to the making of this Agreement, nor commercially use the other's name, without the express written consent of the other Party. Further, the Parties agree that neither shall make a press or other announcement or disclose the terms of this Agreement to any person or make any statements to third parties, which may implicate the other Party, without the written consent of the other Party.

(n) Nothing in this Agreement shall be deemed or construed as creating a joint venture or partnership between TELECOM and CUSTOMER. Neither Party is by virtue of this Agreement authorized as an agent, employee or legal representative of the other, except as expressly stated herein. Except as specifically set forth herein, neither Party shall have power to control the activities and operations of the other and their status is, and at all times will continue to be, that of independent contractors. Neither Party shall have any power or authority to bind or commit the other except as provided herein.

(l) This Agreement and any Exhibits attached hereto, and any Attachments or Schedules attached thereto, constitute the entire understanding between the parties and supersedes all prior understandings, oral or written representation, statements, negotiations, proposals and undertaking with respect to the subject matter hereof. This Agreement may not be changed or waived except as permitted by this Agreement or by a written document that is signed by both Parties.

Attachments: Exhibit 1 - Capacity Description
Exhibit 2 - Service Level Objectives
Exhibit 3 - Rates and Charges

[Handwritten signature]
102

IN WITNESS WHEREOF, the Parties have executed this Capacity Agreement by their duly authorized representatives.

GTE TELECOM INCORPORATED

By: [Signature]

Name: Joe Boland

Title: Vice President/General Manager

Date: 8/26/99

BELL ATLANTIC GLOBAL NETWORKS, INC.

By: [Signature]

Name: Stewart Verge

Title: President & CEO

Date: 9/2/99

and

By: [Signature]

Name: Kenneth Shelton

Title: Controller

Date: 8/27/99



Exhibit 1

GTE TELECOM INCORPORATED

210 N. Franklin Street Suite 2400

Tampa, Florida 33602

Account Manager

Tel: () Fax. No. ()

Customer Name _____

Service Address: _____

Billing Address: _____

Customer Contact: _____

Tel: () Fax. No. ()

CAPACITY DESCRIPTION

Order No.	P.O. Number	Date:
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Termination Points/ Description of Services	Number	Requested Service Date	Service Term (months)	Non- Recurring Charges	Monthly Recurring Charges (each)	Monthly Recurring Charges (TOTAL)
TOTAL CHARGES:				NRCS _____	MRC \$ _____	

REMARKS:

REFERENCE: Capacity Agreement No. _____

Cancellation Charges Apply as set forth in the referenced Capacity Agreement in the event Services are canceled or changed.

THIS CAPACITY DESCRIPTION IS ENTERED INTO PURSUANT TO THE CAPACITY AGREEMENT IDENTIFIED HEREIN, THE TERMS AND CONDITIONS OF WHICH ARE INCORPORATED HEREIN IN THEIR ENTIRETY; PROVIDED, HOWEVER, THAT IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THIS CD AND THE TERMS AND CONDITIONS OF THE APPLICABLE CAPACITY AGREEMENT, THE TERMS AND CONDITIONS CONTAINED IN THE CAPACITY AGREEMENT SHALL PREVAIL.

The Customer hereby orders the Services described in this Capacity Description	ACCEPTED BY GTE TELECOM INCORPORATED	
Company		
Signature	Joe Boland, Vice President/General Manager	Date
Printed Name	Lu Whanger, Director of Sales	Date
Title	Account Manager	Date

BLS

Exhibit 2**Service Level Objectives**

I. TELECOM will make commercially reasonable efforts to meet the following Service Level Objectives:

- (a) Mean Time to Repair ("MTR") - less than or equal to four (4) hours for DS3's, OC3's, OC12's and OC 48's.
- (b) Network Availability for "on net" private line Services:
 - 99.95% for Linear Network
 - 99.99% for SONET Ring Network (when available).

II. **Credits for Outages:**

(i) For the purposes of this Agreement, a circuit shall be deemed to be in an "Outage" condition if, following the start of Service while CUSTOMER is actually using or attempting to use such circuit, the circuit loses continuity and becomes unavailable as defined above or the MTR exceeds four hours. CUSTOMER's request for credit for Outages must be submitted to TELECOM in writing within thirty (30) calendar days of such Outage. TELECOM will respond to each of CUSTOMER's requested credits and upon Outage verification by TELECOM, TELECOM will apply the applicable credit to the next or subsequent Service invoice. Service Outages do not include (a) Outage periods when CUSTOMER has released the Service to TELECOM for maintenance purposes or to make rearrangements or CUSTOMER requested changes in the Service; (b) circuits outside the contiguous U.S.; (c) any circuits ordered by CUSTOMER from another telecommunications service provider or carrier; (d) any Local Access circuits ordered by or on behalf of CUSTOMER; (e) failure of CUSTOMER applications, equipment or facilities, (f) acts or omissions of CUSTOMER, or any use or user of the Service authorized by CUSTOMER or (g) reasons of Force Majeure. Outage credits shall be in an amount equal to twice the proportionate monthly recurring charges for the period during which Service was interrupted (i.e., the proportionate MRC multiplied by two), not to exceed the applicable MRC for the circuit. No credit is allowed for Service Outages of less than thirty (30) minutes. Outages will be credited to CUSTOMER in half-hour multiples for each half hour or major fraction thereof, from the time TELECOM receives notification until Service is restored. The credit shall not be applicable for the time that TELECOM stands ready to repair the Service and CUSTOMER does not provide access to TELECOM to perform such repair and restoration work. The credit allowance for an Outage or a series of Outages shall not exceed the current monthly recurring charge for such Service. The credit provided for in this Section shall be TELECOM's sole liability and CUSTOMER's sole and exclusive remedy in the event of any Outage or Service interruption.

III. **Chronic Outages:** In the event that a single circuit experiences three (3) or more Outages of fifteen (15) minutes duration or longer during any thirty (30) day period, CUSTOMER may declare that the circuit has a chronic problem. Upon written notice from CUSTOMER, TELECOM will have thirty (30) days to correct the chronic problem. In the event that the problem is not corrected within thirty (30) days of TELECOM's receipt of written notice, CUSTOMER may cancel this circuit without any additional charges or any further liability. In addition to credits for periods the circuits are unavailable, CUSTOMER shall have the right to terminate the applicable CD for chronic outages for each affected circuit. Such cancellation or termination together with the issuance of Credits for Outages as described above shall be CUSTOMER's sole and exclusive remedy for chronic Outages.

Credit allowances will be calculated on a monthly basis and the applicable Outage credit by circuit will be included in the TELECOM's invoice. CUSTOMER shall have thirty (30) days from date of receipt of the invoice to contest the credit allowance offered by TELECOM.

Handwritten signature and initials, possibly "B.B.F." and "145", with a date "12" next to it.

**Exhibit 3
Rates and Charges**

SERVICE TYPE	Number of DS-O's	PRICE PER DS-O MILE
DS-3	672	\$0.175
OC-3	2016	\$0.015
OC-12	8064	\$0.015
OC-48	32256	\$0.015

The above pricing is in effect for two (2) years after the effective date of the first order under this Agreement. Beginning on the first of the month following the 24th month anniversary of the first circuit start date, the above prices will be reduced by 15%.

Beginning at the beginning of Year 3, the effective rates will be as follows:

SERVICE TYPE	Number of DS-O's	PRICE PER DS-O MILE
DS-3	672	\$0.0149
OC-3	2016	\$0.0128
OC-12	8064	\$0.0128
OC-48	32256	\$0.0128

Minimum circuit charge is for 50 miles.

Other non-recurring charges:

1. Move charge without Local Access - \$750 one-time charge;
2. Add charge (increasing a circuit speed) at the same POP \$750 one-time charge;
3. Move of a local loop - this is passthrough from the local loop provider plus \$200 one-time administrative charge.

BIB
16/93
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GTE TELECOM INCORPORATED CAPACITY AGREEMENT

This CAPACITY AGREEMENT is made and entered into as of 8/02, 1999, by and between GTE Telecom Incorporated (hereinafter referred to as "TELECOM" or Party), a Delaware corporation with principal offices at 201 N. Franklin Street, Suite 2400, Tampa, Florida 33602; and 3605892 Canada Ltd. (a subsidiary of BCT TELUS Communications Inc.), (hereinafter referred to as "CUSTOMER" or Party), with offices at 404 4th Avenue SW, Suite 3300, Calgary, Alberta, Canada, T2P0J4 for the provision of capacity and related ancillary telecommunications services (hereinafter referred to as "Services") as described herein and accepted by CUSTOMER under this Agreement, subject to the terms and conditions contained herein. This Capacity Agreement together with any Capacity Descriptions (as described in Section 1 below) accepted by TELECOM pursuant to the terms hereof shall be referred to collectively as the "Agreement".

1. SERVICE REQUESTS/CAPACITY DESCRIPTIONS: Requests for Services to be provided hereunder shall be issued by CUSTOMER from time to time on TELECOM Capacity Description Form(s) (hereinafter referred to as a "CD", a copy of which is attached hereto and made a part hereof as **Exhibit 1**). Each CD shall reference this Capacity Agreement by CA Number. Such CDs shall be effective when accepted in writing by TELECOM and shall become part of this Agreement to the extent that they specify the type of Service to be provided, quantity of circuits, originating and terminating cities, requested service date, Service Term, monthly recurring charges (MRC) and non-recurring charges (NRC) for provision of Service, and other information necessary for TELECOM to provide Service to the CUSTOMER. No action by TELECOM (including, without limitation, provision of Service to CUSTOMER pursuant to such CD) shall be construed as binding or estopping TELECOM with respect to such term or condition, unless the CD containing said specific term or condition has been executed by an authorized representative of TELECOM.

2. EFFECTIVE DATE AND APPLICATION OF THIS AGREEMENT: This Agreement shall be effective between the parties as of the date first written above. This Agreement shall apply exclusively to the Service provided to CUSTOMER pursuant to the CD(s) identified with this Agreement and accepted by TELECOM, for the Service Term stated therein and any automatic extensions thereof. Services are provided subject availability, therefore TELECOM reserves the right not to accept a CD under this Agreement at any time.

3. SERVICE TERM: (a) After a CD is accepted by TELECOM, a Firm Order Confirmation Date ("FOC" Date) will be scheduled for Service installation. The Service Term for Services subject to recurring charges and described in a CD shall commence on the Firm Order Confirmation Date or the date upon which the Service actually becomes available (the "In Service" Date), in conformity with technical standards, whichever is later. TELECOM's standard ordering interval for OC 12 Service and below, is forty-five (45) calendar days from TELECOM's receipt of the CD signed by the CUSTOMER. During the ordering interval, TELECOM will use commercially reasonable efforts to process each CD to achieve installation and cut-over (i.e., In Service) within the forty five (45) day interval. The Parties may at any time mutually consent to accelerate the In Service Date. Such consent must be in writing and signed by both Parties. Within fifteen (15) days after its receipt of CUSTOMER's signed CD, TELECOM will provide CUSTOMER with a FOC Date.

(b) TELECOM will make reasonable efforts to meet the CUSTOMER requested In Service Date, however, the inability of TELECOM to install Service on or before the date requested shall not be a Default under this Agreement. Except for any installation delays caused by those events described in Section 12 below, in the event Service installation is delayed for thirty (30) days beyond the CUSTOMER requested In Service Date with respect to each Service ordered, then CUSTOMER's sole remedy shall be cancellation of the CD which pertains to such Service upon ten (10) calendar days prior written notice to TELECOM.

(c) Upon expiration of the Service Term set forth in the CD, if CUSTOMER is not then in Default under this Agreement, Service will automatically be extended for continuing thirty (30) day periods and may be canceled by either party upon thirty (30) calendar days prior written notice. Unless otherwise agreed to in

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telecom/CA.gtc/rev.03.17.99/C99-082.ca/issued 08.27.99

writing, the charges for Service during any such extension shall be the then current TELECOM month to month rate for such Services.

4. **DESCRIPTION OF SERVICES:** As specified in the CD accepted by TELECOM hereunder, TELECOM will provide to CUSTOMER the following Services:

(a) Capacity Service through the installation and operation of either owned or leased telecommunications facilities between TELECOM designated termination points (hereinafter "Capacity"), and

(b) Ancillary Services Other Services, available on an optional basis, as may be requested by the CUSTOMER (hereinafter referred to "Ancillary Service") as described in Section 5 below.

5. **LOCAL ACCESS/ANCILLARY SERVICES AND CHARGES:** (a) Upon CUSTOMER's request, TELECOM may, at its sole option and when reasonable under the circumstances, act as agent for the CUSTOMER with responsibility for provisioning and the initial testing of an interconnection between selected interexchange carrier, the local exchange carrier or alternate access carriers (collectively "Local Carriers") and a CUSTOMER designated termination point and/or service. CUSTOMER shall issue a Letter of Agency authorizing TELECOM to provision such interconnection on behalf of CUSTOMER. Charges to CUSTOMER for Local Access Service administered on behalf of CUSTOMER by TELECOM shall be as stated in the accepted CD.

(b) TELECOM may also provide Other or Ancillary Services to CUSTOMER, including but not limited to any one or more of the following:

- (1) Multiplexing/demultiplexing service ("Muxing");
- (2) Digital cross-connect service,
- (3) Extraordinary service under the following circumstances including but not limited to:
 - (i) CUSTOMER's request to expedite Service availability to a date earlier than a previously accepted start date or Firm Order Confirmation Date;
 - (ii) Service redesign or other activity occasioned by receipt of inaccurate information from CUSTOMER;
 - (iii) Reinstallation services for any suspension of Service for cause by TELECOM pursuant to Section 10 below;
 - (iv) CUSTOMER's request for use of routes or facilities other than those selected by TELECOM for provision of the Service;
 - (v) CUSTOMER'S request for use of rack space and power in TELECOM facilities;
 - (vi) Other circumstances in which extraordinary costs and expenses are generated by CUSTOMER and reasonably incurred by TELECOM.

(c) Recurring and non-recurring charges to CUSTOMER for Local Access (including TELECOM's Coordination Fee) and Ancillary Services shall be established as of TELECOM's acceptance of the CD relevant thereto.

6. **CUSTOMER RESPONSIBILITIES:** CUSTOMER has sole responsibility for installation, testing, and operation of facilities, services, and equipment other than those specifically provided by TELECOM under a duly accepted CD. In no event will the untimely installation or non-operation of CUSTOMER's facilities, services, and equipment (including local exchange access and customer premise equipment but excluding services specifically provided by TELECOM under a duly accepted CD) relieve CUSTOMER of its obligation to pay charges for Capacity or Ancillary Service as of the In Service Date. Notwithstanding the immediately preceding sentence, in the event CUSTOMER notifies TELECOM of

any untimely installation or non-operation of CUSTOMER facilities, equipment, or services at least thirty (30) days prior to the Firm Order Confirmation Date, CUSTOMER shall have an option of extending the In Service Date for not more than thirty (30) days.

7. PAYMENT OF CHARGES: (a) Subject to Section 8 below, all charges for Services provided by TELECOM pursuant to this Agreement shall be specified in the CD referred to in this Agreement.

(b) CUSTOMER shall pay each TELECOM invoice for Service in full, without deduction or offset of any kind, within thirty (30) days after the date of invoice ("Due Date"). All pro-rated monthly recurring charges (i.e., charges for monthly Services provided for less than a calendar month), installation, and other non-recurring charges shall be payable on the Due Date. All payment shall be made in US dollars. CUSTOMER agrees to timely remit payment to TELECOM at the remittance address indicated on the TELECOM invoice to CUSTOMER.

(c) In the event CUSTOMER fails to pay TELECOM's invoice in full or remit payment at the proper address on or before the Due Date, CUSTOMER shall pay a late fee in an amount equal to one and one-half percent (1½%) per month of the unpaid balance. The late fee will be applied for the number of days from the payment Due Date up to and including the date payment is received by TELECOM. Notwithstanding the foregoing, late fees shall apply to, but shall not be due and payable for, amounts reasonably disputed by CUSTOMER provided: (i) CUSTOMER notifies TELECOM of the basis of such dispute in writing within thirty (30) days after the Due Date and (ii) negotiates in good faith with TELECOM for the purpose of resolving such dispute. In the event such dispute is resolved in favor of TELECOM, CUSTOMER will pay to TELECOM the once disputed amount together with the applicable late fees. In the event the dispute is resolved in favor of the CUSTOMER, CUSTOMER will receive a credit for the amounts determined not to be owed together with a credit for the applicable late fees. The Parties shall use their best efforts to negotiate in good faith to resolve the disputed invoice within thirty (30) days of CUSTOMER's written notice of such dispute. If such resolution is not attained or the time to resolve the dispute is not extended by mutual agreement of the Parties, the dispute shall be settled by arbitration as set forth below in this Agreement.

(d) TELECOM may, in order to safeguard its interests, require CUSTOMER which has no credit history with TELECOM or habitually pays late to make a deposit prior to or any time after the provision of Service to the CUSTOMER to be held by TELECOM as a guarantee of the payment of the rates and charges. At such time as the provision of the Service to CUSTOMER is terminated, the amount of the deposit will be credited to the CUSTOMER's account and any credit balance which may remain will be refunded. After the CUSTOMER has established a six (6) month prompt payment record, such deposit may be refunded or credited to the CUSTOMER account at any time prior to the termination of the provision of the Service to CUSTOMER. In the event CUSTOMER pays a deposit as described above, simple interest at the rate of six percent (6%) will be applied to the deposit for the number of days from the date such deposit is credited to the CUSTOMER'S account or the date the deposit is refunded by TELECOM.

8. TAXES/ADDITIONAL CHARGES: (a) CUSTOMER acknowledges and understands that all charges stated in the CD are computed by TELECOM exclusive of any applicable federal, state, or local use, excise, gross receipts and sales taxes, duties and fees, including but not limited to applicable Universal Service Fund contributions, or similar liabilities (other than general income or property taxes), whether charges to or against TELECOM or CUSTOMER because of the Service furnished by TELECOM ("Additional Charges"), and that such Additional Charges shall be paid by CUSTOMER in addition to all other charges provided for herein.

(b) Such taxes, surcharges or fees shall be separately stated on the invoice and shall be paid directly to TELECOM at the same time as all other charges are due and payable in accordance with this Agreement. Simultaneous with the signing of this Agreement, CUSTOMER shall provide TELECOM with a valid Certificate of Exemption from taxes that would otherwise be paid by CUSTOMER for all foreign, federal, state, country and local taxes and fees, (if any) or other evidence reasonably satisfactory to TELECOM that CUSTOMER is not subject to such taxes, surcharges, or fees. TELECOM will invoice CUSTOMER for taxes that are not covered by a valid tax exempt certificate properly filed with TELECOM.

9. EARLY TERMINATION: (a) Either Party may terminate this Agreement if:

- (i) the other Party ceases doing business as a going concern, makes an assignment for the benefit of creditors, admits in writing to its inability to pay its debts as they become due; or
- (ii) the other Party files a voluntary petition in bankruptcy, is adjudicated a bankrupt or an insolvent; or
- (iii) the other Party files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation or files an answer admitting the material allegations of a petition filed against it in any such proceeding; or
- (iv) the other Party consents or acquiesces in the appointment of a trustee, receiver, or liquidator of it or of all or any substantial part of its assets or properties, or it or its shareholders shall take any action looking to its dissolution or liquidation;
- (v) the other Party breaches any material provision of this Agreement, other than those related to payment of charges, and fails to cure such breach within thirty (30) calendar days after the receipt of notice thereof ("Default").

(b) Both Parties may terminate this Agreement upon mutual written consent.

10. SUSPENSION OF SERVICE: (a) In the event payment in full is not received from CUSTOMER on or before the Due Date with respect to any undisputed amounts, TELECOM shall have the right, after giving CUSTOMER fifteen (15) days written notice via express courier service or registered mail, to suspend all or any portion of Service until such time as CUSTOMER has paid in full all charges then due, including any late fees as specified herein.

(b) Following such payment, TELECOM shall be required to reinstate Service to CUSTOMER only upon CUSTOMER's provision to TELECOM of satisfactory assurance (such as a deposit) of CUSTOMER's ability to pay for Service and CUSTOMER's advance payment of the cost of reinstating Service. If CUSTOMER fails to make such payment by a date determined by and acceptable to TELECOM, CUSTOMER will be deemed to have canceled the suspended Service effective the date of the suspension. Upon such termination, all balances become due and payable.

11. CANCELLATION OF SERVICE:

(a) CUSTOMER may cancel a CD without liability if a Service does not become available within thirty (30) days of the FOC Date as described in Section 3 (b) above.

(b) After a CD is submitted to TELECOM by the CUSTOMER, CUSTOMER may cancel all or a portion of the Services ordered upon written notice to TELECOM. The charges for such Cancellation are as follows:

Prior to issuance of the FOC	No Cancellation Charges
16 days or more prior to FOC Date	50 % of applicable MRC for 1 month
15 days or less prior to the FOC Date	1 Month applicable MRC plus NRC

(c) Unless otherwise stated in the CD and specifically agreed to in writing by both Parties, in the event CUSTOMER cancels existing Service prior to the end of the Service Term described in the CD, CUSTOMER shall pay TELECOM an amount equal to the balance of the monthly Service charges that otherwise would have become due for the unexpired portion of the Service Term.

(d) Subject to the availability of Replacement Services from TELECOM, CUSTOMER may cancel Service prior to the expiration of the Service Term without incurring Early Cancellation charges under the following circumstance:

In the event, CUSTOMER cancels existing Service or any portion thereof prior to the expiration of the Service Term for such Service as described in the applicable Capacity Description (CD) and replaces the canceled

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Service by entering into a new CD for "Replacement Services" as defined below, then no Cancellation Charges shall apply.

For the purposes of this section, the Replacement Services must:

- (i) be currently available on GTE's National Fiber Network;
- (ii) be ordered by entering into a CD for new Services within sixty (60) days of the cancellation;
- (iii) have a Service Term equal to the balance of the unexpired Service Term for the canceled Service;
- (iv) have a Monthly Recurring Charge equal to or greater than the Monthly Recurring Charge of the canceled Services.

In the event CUSTOMER fails to order Replacement Services within sixty (60) days of its cancellation of existing Service, then Early Cancellation charges shall apply as described above.

(e) Notwithstanding the foregoing, and upon thirty (30) days prior written notice, either Party shall have the right, without cancellation charge or liability, to cancel (i) an affected portion of the Service, if TELECOM is prohibited by governmental authority from furnishing said portion, or (ii) an affected portion of the Service if any material rate or term contained herein is substantially changed by final order of a court of competent jurisdiction, the Federal Communication Commission, or other local, state or federal government authority.

(f) It is agreed that TELECOM's damages in the event of a cancellation can be difficult or impossible to ascertain. The provision for cancellation charges in this Section 11 is intended to establish liquidated damages in the event of Service cancellation and is not intended as a penalty.

12. FORCE MAJEURE: If TELECOM's performance of this Agreement or any other obligation hereunder is prevented, restricted or interfered with by causes beyond their reasonable control including but not limited to acts of God, fire, explosion, vandalism, cable cut, storm, or other similar occurrence, any law, order, regulation, direction, action or request of the United States government or state or local government, or of any department, agency, commission, court, bureau, corporation or other instrumentality of any one or more said governments, or civil or military authority, or by national emergencies, insurrections, riots, wars, strikes, lockouts or work stoppages or other labor difficulties, actions or inactions of a third party provider or operator of facilities employed in the provision of the Services, suppliers' failures, shortages, breaches, or delays provided such supplier's failures, shortages, breaches or delays are not caused by any default or non-compliance by TELECOM, then TELECOM shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference. TELECOM shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or cease.

13. SERVICE WARRANTY: (a) TELECOM warrants that it will provide the Service to CUSTOMER in accordance with the Service Level Objectives attached hereto as Exhibit 2 (hereinafter "Technical Standards"). TELECOM will use reasonable efforts under the circumstances to remedy any delays, interruptions, omissions, mistakes, accidents or errors in any Service and restore the Service in accordance with Technical Standards. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(b) For the purposes of this Agreement, a circuit shall be deemed to be in an "Outage" condition if, following the start of Service while CUSTOMER is actually using or attempting to use such circuit, the circuit becomes unavailable. CUSTOMER's request for credit for Outages must be submitted to TELECOM in writing within thirty (30) calendar days of such Outage. TELECOM will respond to each of CUSTOMER's requested credits and upon Outage verification by TELECOM, TELECOM will apply the applicable credit to the next or subsequent Service invoice. Service Outages do not include (i) Outage periods when CUSTOMER has released the Service to TELECOM for maintenance purposes or to make

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rearrangements or CUSTOMER requested changes in the Service; (ii) circuits outside the contiguous U.S.; (iii) any circuits ordered by CUSTOMER from another telecommunications service provider or carrier; (iv) any local access circuits ordered by or on behalf of CUSTOMER; (v) failure of CUSTOMER applications, equipment or facilities; (vi) acts or omissions of CUSTOMER, or any use or user of the Service authorized by CUSTOMER or (vii) reasons of Force Majeure. Outage credits shall be in an amount equal to twice the proportionate monthly recurring charges for the period during which Service was interrupted (i.e., the proportionate MRC multiplied by two), not to exceed the applicable MRC for the circuit. No credit is allowed for Service Outages of less than thirty (30) minutes. Outages will be credited to CUSTOMER in half hour multiples for each half hour or major fraction thereof, from the time TELECOM receives notification until Service is restored. The credit shall not be applicable for the time that TELECOM stands ready to repair the Service and CUSTOMER does not provide access to TELECOM to perform such repair and restoration work. The credit allowance for an Outage or a series of Outages shall not exceed the current monthly recurring charge for such Service. The credit provided for in this Section shall be TELECOM's sole liability and CUSTOMER's sole and exclusive remedy in the event of any Outage or Service interruption.

(c) **Chronic Outages** In the event that a single circuit experiences three (3) or more Outages of fifteen (15) minutes duration or longer during any thirty (30) day period, CUSTOMER may declare that the circuit has a chronic problem. Upon written notice from CUSTOMER, TELECOM will have thirty (30) days to correct the chronic problem. In the event that the problem is not corrected within thirty (30) days of TELECOM's receipt of written notice, CUSTOMER may cancel this circuit without any Early Cancellation Charges and additional charges or any further liability and such cancellation will be CUSTOMER's sole and exclusive remedy for chronic Outages.

Credit allowances will be calculated on a monthly basis and the applicable Outage credit by circuit will be included in the TELECOM's invoice. CUSTOMER shall have thirty (30) days from date of receipt of the invoice to contest the credit allowance offered by TELECOM.

14. **LIMITATION OF LIABILITY:** TELECOM shall not be liable for interruptions, delays, errors, or defects in transmission caused by the Customer, or the Customer's agents, end users, or by facilities or equipment provided by the Customer or by equipment interconnected with the Customer. UNDER NO CIRCUMSTANCES, WHETHER IN CONTRACT TORT OR OTHERWISE, SHALL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR ANY OTHER DAMAGES OF ANY KIND OR NATURE WHATSOEVER REGARDLESS OF THE CAUSE OR FORESEEABILITY THEREOF, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM DELAY OR LOSS OF DATA, PROFITS, REVENUE OR GOODWILL.

15. **INDEMNIFICATION:** In the event parties other than CUSTOMER shall have use or benefit of or shall be otherwise affected by the Service provided through CUSTOMER, then CUSTOMER agrees to forever indemnify and hold TELECOM and any third party provider or operator of the facilities employed in the provision of the Service harmless from and against any and all claims, demands, suits, actions, losses, damages, assessments or payments which may be asserted by said parties, arising out of or related to any outage in Service.

16. **NOTICES:** Notices under this Agreement shall be in writing and shall be given or made by telephonically confirmed facsimile transmissions, certified or registered mail, express mail or other overnight delivery service, or hand delivery, proper postage or other charges prepaid. Notices shall be sent to the address listed below until such address is changed by written notice. Such notice shall be deemed to have been given or made when actually received or seventy two (72) hours after being sent, whichever occurs first.

TO GTE TELECOM:

GTE Telecom Incorporated
201 N. Franklin Street
Suite 2400
Tampa, Florida 33602
Attention: Manager - Contracts and Tariffs
Fax No.: 813/209-9620

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TO CUSTOMER:

BCT.Telus Communications, Inc.
400 Fourth Southwest, Suite 3300
Calgary, Alberta, Canada, T2P0J4
Attention: Brian H.R. Welsh
Fax No.: 403/266-4548

17. USE OF SERVICE/CAPACITY: (a) TELECOM's obligation to provide Services specified herein is conditioned upon CUSTOMER not allowing the Services to be used for any unlawful purpose or in violation of any governmental regulations or authorizations. TELECOM shall have the right to limit, terminate or suspend Service by written notice for improper use of the Service by CUSTOMER or any activity by CUSTOMER, as determined in the sole discretion of TELECOM, that threatens public health, safety, or welfare, or the integrity or reliability of TELECOM's facilities or service to TELECOM's other customers.

(b) CUSTOMER represents and warrants that although the capacity purchased under this Agreement is located in the United States, it will be incorporated into CUSTOMER's network for the purpose of providing communications services to its customers in Canada.

18. NONDISCLOSURE: Neither Party shall use, except as provided herein, nor disclose to any third party during the Term of this Agreement and for a period of two (2) years thereafter, any of the terms and conditions relating to this Agreement, including but not limited to the rates and charges set forth in this Agreement, unless such disclosure is lawfully required by any federal governmental agency, is otherwise required to be disclosed by law, or is necessary in any proceeding establishing the rights and obligations under this Agreement except with the written permission of the other Party, which permission shall not be unreasonably withheld. Prior to any such required disclosure by CUSTOMER, CUSTOMER shall provide TELECOM with adequate written notice so as to enable TELECOM to seek appropriate protection. TELECOM reserves the right to terminate this Agreement immediately upon written notice of any unpermitted third party disclosure hereunder.

19. LICENSES, APPROVALS AND AUTHORIZATIONS: CUSTOMER represents that in all jurisdictions in which it is utilizing the Services for the provision of its own services that require licenses, approvals or other authorizations it has obtained such licenses, approvals or other authorizations from the appropriate governmental authority. Further, if required by TELECOM, CUSTOMER shall provide proof of such licenses, approvals or other authorizations. CUSTOMER shall immediately notify TELECOM in writing, in the event CUSTOMER is prohibited, either on a temporary or permanent basis, from continuing to provide such services. In such event, TELECOM reserves the right to terminate this Agreement.

20. RESOLUTION OF DISPUTES: The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution provision, the parties agree to submit the dispute to a single arbitrator in Florida for resolution by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator. Each Party shall bear its own costs of these procedures. A Party seeking discovery shall reimburse the responding Party the costs of production of documents (to include search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.

21. GENERAL PROVISIONS: (a) Other Documents CUSTOMER will execute such other documents, provide such information, and affirmatively cooperate with TELECOM, all as may be reasonably required by TELECOM and relevant to providing the Service. In particular, CUSTOMER accepts the responsibility for providing TELECOM with special access surcharge exemption forms as may be required by the local exchange carrier and as applicable, TELECOM's Universal Service Fund exemption form.

(b) Non-Waiver The failure of either Party to give notice of default or to enforce or insist upon compliance with any of the terms or conditions of this Agreement, the waiver of any term or condition of this Agreement or the granting of an extension of time for the performance shall not constitute the

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permanent waiver of any term or condition of this Agreement and this Agreement and each of its provisions shall remain at all times in full force and effect until modified by the Parties in writing.

(c) Relationship of the Parties The provision of Service will not create a partnership or joint venture between the parties or result in a joint communications service offering to third parties.

(d) Enforcement In the event suit is brought or an attorney is retained by TELECOM to enforce terms of this Agreement or to collect any monies due hereunder or to collect money damages for breach hereof, it shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation, and other related expenses incurred in connection therewith.

(e) Modification No subsequent agreement shall change, modify or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by authorized representatives of both parties.

(f) Assignment This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors or assigns, provided, however, that CUSTOMER shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of TELECOM, which consent shall not be unreasonably withheld, and further provided that any assignment or transfer without such consent shall be deemed void and shall entitle TELECOM to terminate the Service provided hereunder, at its option, upon ten (10) days prior written notice. Notwithstanding anything to the contrary, either Party may, without the other Party's consent but upon written notice to the other Party, assign in whole or in part the rights and obligations under the Agreement to a person that directly or indirectly controls, is controlled by, or is under common control with the assignor or to purchaser of all or substantially all of assignor's assets.

(g) Governing Law All Services provided under this Agreement are deemed to be provided in the United States. This Agreement shall be a contract between TELECOM and CUSTOMER and the terms hereof shall be construed under the laws of the State of Florida without regard to choice of law principles.

(h) Severability If any part or any provision of this Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement, and the CUSTOMER and TELECOM hereby agree to negotiate with respect to any such invalid or unenforceable part to the extent necessary to render such part valid and enforceable.

(i) Survival The terms and provisions contained in this Agreement that by their sense and content are intended to survive the performance thereof by the parties hereto shall survive the completion of performance and termination of this Agreement, including, without limitation, provisions for indemnification, nondisclosure and the making of any and all payments due hereunder.

(j) Headings The section headings are for convenience only and shall not be considered in its interpretation.

(k) Interpretation Words having well-known technical or trade meanings shall be so construed, and all listing of items shall be taken to be exclusive, but shall include other items, whether similar or dissimilar to those listed, as the context reasonably applies in the interpretation of this Agreement.

(l) Entire Agreement This Agreement consists of all the terms and conditions contained herein, in Capacity Descriptions, if applicable, that conform hereto, and documents incorporated herein specifically by reference; this Agreement constitutes the complete and exclusive statement of agreements and understandings between the parties, and supersedes all proposals and prior agreements (oral and written) between the parties relating to Service provided hereunder. No representations or warranties, express or implied, have been made or relied upon in the making of this Agreement, other than those specifically contained in this Agreement.

Attachments: Exhibit 1 - Capacity Description
Exhibit 2 - Service Level Objectives

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IN WITNESS WHEREOF, the Parties have executed this Capacity Agreement by their duly authorized representatives.

GTE TELECOM INCORPORATED

By: [Signature]

Name: Joe Boland

Title: Vice President/General Manager

Date: 11/8/99

3605892 CANADA LTD.

By: [Signature]

Name: CYNTHIA LEWIS

Title: President, Texas Integrated Comm

Date: OCT 22, 1999

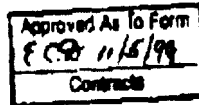
and

By: [Signature]

Name: Kenneth Shelton

Title: Controller

Date: 11/17/99



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Exhibit 1 to Capacity Agreement

GTE TELECOM INCORPORATED

210 N. Franklin Street Suite 2400

Tampa, Florida 33602

Account Manager

Tel: () Fax. No. ()

Customer Name: _____

Service Address: _____

Billing Address: _____

Customer Contact: _____

Tel: () Fax. No. ()

CAPACITY DESCRIPTION

Order No.	P.O. Number	Date:
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Termination Points/ Description of Services	Number	Requester/ Service Date	Service Term (months)	Non- Recurring Charges	Monthly Recurring Charges (each)	Monthly Recurring Charges (TOTAL)

TOTAL CHARGES: NRC\$ _____ MRC \$ _____
REMARKS:

REFERENCE: Capacity Agreement No. _____

Cancellation Charges Apply as set forth in the referenced Capacity Agreement in the event Services are canceled or changed.

THIS CAPACITY DESCRIPTION IS ENTERED INTO PURSUANT TO THE CAPACITY AGREEMENT IDENTIFIED HEREIN, THE TERMS AND CONDITIONS OF WHICH ARE INCORPORATED HEREIN IN THEIR ENTIRETY; PROVIDED, HOWEVER, THAT IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THIS CD AND THE TERMS AND CONDITIONS OF THE APPLICABLE CAPACITY AGREEMENT, THE TERMS AND CONDITIONS CONTAINED IN THE CAPACITY AGREEMENT SHALL PREVAIL.

The Customer hereby orders the Services described in this Capacity Description	ACCEPTED BY GTE TELECOM INCORPORATED	
Signature	Joe Boland, Vice President/General Manager	Date
Printed Name	Lu Whanger, Director of Sales	Date
Title	Account Manager	Date

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EXHIBIT 2

SERVICE LEVEL OBJECTIVES - TECHNICAL STANDARDS

TELECOM will make commercially reasonable efforts to meet the following Service Level Objectives:

- (a) Mean Time to Repair - less than or equal to four (4) hours for DS3's, OC3's, OC12's.
- (b) Network Availability for "on net" private line Services:
 - 99.95% for Linear Network
 - 99.99% for SONET Ring Network (when available).